



# Frequently Asked Questions

(and Answers from the SCAO/FOCB)

**FAQ 2003-03**

**October 17, 2003**

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## **Payment and Distribution of Related Statutory Fees**

The State Court Administrative Office (SCAO) issued Administrative Memorandum (ADM) 2000-08 as a statewide policy on allocation and distribution of support accounts. In January 2001, the Michigan Supreme Court implemented Michigan Court Rule (MCR) 3.208(C) on the allocation and distribution of payments on friend of the court cases. Recently, the SCAO has received several questions related to the payment of fees.

This FAQ answers common questions related to the payment and distribution of statutorily authorized fees related to local family division court operations and owed on certain domestic relations cases, (e.g. amounts due under the friend of the court act, support and parenting time enforcement act, or other laws directly related to friend of the court activity) and the \$.25 for the Attorney General's operation fund.

### **#1 Q. Where can I find a copy of ADM 2000-08 and MCR 3.208?**

A. You can access the policy on allocation and distribution by clicking [here](http://courts.michigan.gov/scao/resources/other/scaoadm/2002/2000-08.pdf) or by going to: <http://courts.michigan.gov/scao/resources/other/scaoadm/2002/2000-08.pdf>. You will find the Michigan Court Rules by clicking [here](http://courtofappeals.mjud.net/rules/public/default.asp) or by going to: [http://courtofappeals.mjud.net/rules/public/default](http://courtofappeals.mjud.net/rules/public/default.asp).asp, and selecting Chapter 3, Subchapter 3.200, and Rule 3.208.

### **#2 Q. What are some common examples of related statutory fees?**

A. On certain domestic relations cases, the law permits charging a \$2.00 per month service fee<sup>1</sup> and a \$1.50 per month non-IV-D service fee.<sup>2</sup>

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<sup>1</sup> Fee is payable semiannually on January 2 and July 2 to reimburse the county for the cost of enforcing support or parenting time orders. Only certain acts provide authority to charge the fee, so this fee can only be charged in certain types of actions (e.g. divorce, separate maintenance, paternity, custody act, RURESAs, family support act, etc., and not UIFSA, nor UCCJEA). This fee's CSES account type is O - statutory fee, and MiCSES debt type is SF - service fee.

<sup>2</sup> Fee paid by every person required to make payments of support or maintenance collected by the FOC or SDU for services provided not reimbursable under Title IV-D of the Social Security Act. [MCL 600.2538]. This fee's CSES account type and current MiCSES debt type is PF – processing fee. Effective 10/1/03, Public Act 138 of 2003 requires a \$.25 increase to be deposited with the State Treasurer for the Attorney General's operation fund.

- #3 Q. How can payments be applied to related statutory fees?**
- A. If any portion of the current month's support is owed or if support arrears exist, income withholding payments cannot be applied toward fees. Federal regulation and court rule only allow payments on fees in a few circumstances. Generally, the FOC or SDU may apply support related payments on fees when no support arrears exist and the current month's support has been paid. The FOC or MiCSES can apply a payment to a related fee debt, if the payment (1) is made by the individual owing the fee debt and (2) contains the proper designations to allocate or distribute in a particular manner toward related statutory fees.
- #4 Q. What are the minimum requirements for designating a particular allocation or distribution of a payment?**
- A. The statewide policy on allocation and distribution (ADM 2000-08) contains rules on allocation and distribution which depend on the source of payment. Income withholding payments must be allocated and distributed according to the statewide policy. MCR 3.208(C) and ADM 2000-08 allow an individual to designate a payment to a specific case or to specific debts by providing the name of the payer, the name of the payee, the case number, and the amount designated for a particular case or specific account(s).
- #5 Q. What should happen to payments not properly designated for a particular allocation or distribution of a payment?**
- A. If a payer fails to properly designate an ordered payment or to include all of the information required in MCR 3.208(C), according to MCR 3.208(C)(1) the payment must be allocated and distributed according to SCAO's statewide allocation and distribution policy.
- #6 Q. Can related statutory fees be billed and paid separately to the FOC?**
- A. Yes. Offices may generate a notice or "bill" for the amounts owed to individuals owing related statutory fees. Payment of fees may be made to the FOC and applied to fees (1) if all of the current month's support and support arrears are paid in full or (2) if the payment contains the directions required by SCAO's statewide allocation and distribution policy.<sup>3</sup> A billing notice may recommend that fee payments not be combined with child support payments, or that fee payments be sent to the FOC office instead of the SDU. Offices should not submit expenses related to the separate billing of fees for IV-D reimbursement.
- #7 Q. Should an office send a separate income withholding notice for fees only?**
- A. No. MCL 552.609 states that notices must direct withholding in sufficient amounts "to meet the payments ordered for support and service fees, and to defray arrearages in payments and service fees due." Unless only fees are owed, withholding notices must include payment of non-fee amounts. Further, now that payments are paid through the SDU, the law does not authorize having withheld payments sent anywhere but to the SDU.
- #8 Q. When does the \$2.00 service fee become IV-D program income?**
- A. In 1999, this fee changed from a handling fee to a fee "to reimburse the county for the cost of enforcing support or parenting time orders." OCS Friend of the Court Letter 99-027 stated that

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<sup>3</sup> "For each account where payment is intended, [the payer at a minimum must] specify the names of the payer and payee, the case number(s), and amounts designated for each non-support account."  
ADM 2000-08(D).

counties may apply service fees to parenting time enforcement costs first, and that any portion of the fees collected exceeding a county's cost of parenting time enforcement should be reported as program income for IV-D expense reimbursement purposes. The scope of the OCS letter does not address the extent to which fees can be used for expenses incurred by a county for non-IV-D activities or in non-IV-D cases.

In collaboration with county funding unit(s), each court should establish a written process or policy to accurately report how the \$2.00 service fees are used to reimburse non-IV-D program support enforcement costs. In addition to offsetting fee collections by the cost of parenting time enforcement, local policies may include consideration of a county's cost for related services and expenses not addressed in the OCS memo.

**#9 Q. How should fee arrearage repayment amounts be determined on notices of income withholding?**

- A. Notices must direct employers to withhold amounts sufficient “to meet the payments ordered for support and service fees, and to defray arrearages in payments and service fees due.”<sup>4</sup> Since fees can only be collected from withheld payments after the current month's and all past due support is paid, a repayment amount for any arrears will eventually distribute to fees. MCL 552.517e requires friend of the court offices to use guidelines in the Michigan Child Support Formula Manual to adjust arrearage repayments. The arrearage guideline does not mention calculating an amount for past due fees. Because withheld payments must be applied to support arrears before fees, in calculating a periodic arrearage repayment amount we recommend adding fee arrears into the total arrearage amount used by the guideline to calculate and prorate a fee arrears amount for the withholding notice. Currently, MiCSES includes past due fees in arrearage repayment calculations.

**#10 Q. When are fees allowed in interstate cases?**

- A. In cases where Michigan support orders (divorce, paternity, family support, RURESA, etc.) are registered in other states, applicable fees may be charged and collected. In registration or establishment initiated to other states under UIFSA or RURESA which do not include an existing Michigan support order, no fees can be charged. Under RURESA, an office can charge a \$2.00 fee in cases where Michigan entered a support order that includes a provision ordering that fee. No statutory authority exists under UIFSA to charge a \$2.00 service fee. An office can charge and collect a \$1.50 non-IV-D services fee in any RURESA or UIFSA case where Michigan has the direct jurisdiction to require a person required “to make payments of support or maintenance collected by the friend of the court or state disbursement unit.” Friend of the Court Policy and Procedures Memo 1998-1 issued by the FOCB contains additional information on this topic.

**#11 Q. How should fee payments be divided?**

- A. Divide current period fee payments pro-rata according to each respective current fee charge (i.e., \$2.00 service fee, \$.25 of the processing fee deposited with the county treasurer, and \$1.00 for the state court fund and \$.25 for the attorney general's operation fund from processing fees deposited with the State Treasurer). Until MiCSES completes fee enhancements, local offices should not change their division of fees. According to the Office of Child Support, system

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<sup>4</sup> MCL 552.609.

enhancements will automatically divide fees and directly send payments to the state and county treasurers.

Payments apply to past due fees first. Divide fee payments owed for prior periods pro-rata, according to the balances owed.

**#12 Q. How will payer's receive notice of the fee increase?**

- A. The friend of the court must provide notification of the new fee by posting a notice in a conspicuous place within the office. The Office of Child Support will include a notification to payers on payment coupons and new withholding notices. The Bureau will update its model handbook and place it on the Bureau's website.

**#13 Q. Is it necessary to send new income withholding notices on all cases to reflect the increased fee amount?**

- A. No. Increase fee payments when you send a withholding notice for another reason (e.g., new source of income, new order, changed support amount, administratively adjusted arrearage payment, etc.), and when the payer does not have an arrearage.

**#14 Q. When should increased fee collections begin?**

- A. The statute increased the fee effective October 1, 2003. According to a September 30, 2003, MiCSES notification, the system does not contain a debt type to accommodate this change. Until the system changes provide a means of properly accounting for them, friends of the court should not try to collect, nor charge the increased fees. For additional details click [here](http://mi-support.mfia.state.mi.us/systems/notifications/default.asp) or go to: <http://mi-support.mfia.state.mi.us/systems/notifications/default.asp>.

**#15 Q. Is it necessary to include increased fee language in orders?**

- A. No. The law requires that orders contain information regarding service fees; it does not require notice of processing fees. Orders may include specific fee amounts; however, a court may use the fees provision from the [Uniform Support Order \(SCAO approved form FOC 10\)](#) to avoid confusion and updating orders when fees change. "The payer of support shall pay statutory and service fees as required by law."

**#16 Q. Who should courts and friend of the court offices call with any questions on the payment and distribution of FOC related fees?**

- A. If a court or friend of the court office has additional questions or comments, they should contact William Bartels or Steven Capps at 517-373-5975, or by email at [bartelsb@courts.mi.gov](mailto:bartelsb@courts.mi.gov) and [cappss@courts.mi.gov](mailto:cappss@courts.mi.gov).